

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
vs.) Criminal Action
)
RAFAEL LEONER-AGUIRRE,) No. 15-10338-FDS
Defendant)
)
)
)

BEFORE: THE HONORABLE F. DENNIS SAYLOR, IV

JURY TRIAL DAY 11

John Joseph Moakley United States Courthouse
Courtroom No. 2
1 Courthouse Way
Boston, MA 02210

November 21, 2017
9:01 a.m.

Valerie A. O'Hara
Official Court Reporter
John Joseph Moakley United States Courthouse
1 Courthouse Way, Room 3204
Boston, MA 02210
E-mail: vaohara@gmail.com

1 APPEARANCES:

2 For The United States:

3 United States Attorney's Office, by GLENN A. MacKINLAY,
4 ASSISTANT UNITED STATES ATTORNEY, and KUNAL PASRICHA,
5 ASSISTANT UNITED STATES ATTORNEY, 1 Courthouse Way, Suite 9200,
6 Boston, Massachusetts 02110;

7 For the Defendant:

8 KEITH S. HALPERN, ESQ., 572 Washington Street, Suite 19,
9 Wellesley, Massachusetts 02482.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 PROCEEDINGS

2 THE CLERK: All rise. Thank you. Please be seated.

3 THE CLERK: All rise for the jury.

4 (JURORS ENTERED THE COURTROOM.)

5 THE COURT: Good morning, everyone. It looks like we
6 have twelve of you and the four alternates, and I instruct you
7 to retire and to return to your deliberations, and just like
8 yesterday, I will see where we are and what you want to do.
9 With that, I instruct you to retire and continue your

09:01AM 10 deliberations.

11 THE CLERK: All rise.

12 (JURORS EXITED THE COURTROOM.)

13 (A recess was taken.)

14 (Jury deliberating)

15 THE CLERK: All rise. Thank you. You may be seated.
16 Court is now back in session.

17 THE COURT: All counsel are here. We have a question
18 from the jury: "May we have a copy of the ECS organization
19 chart? Thanks, the jury." May we have a copy of the ECS
10:36AM 20 organization chart? I'm not quite sure what they means, but I
21 assume it's the blow-up, which the government used, which is a
22 chalk, am I right about that?

23 MR. PASCRIHA: I believe that's correct, your Honor.
24 There was a subpart that was introduced, that was the chalk as
25 well. I don't think we were ever introduced, there were two

1 different chalks, but they were both chalks.

2 THE COURT: They can go to the jury if counsel agrees.

3 MR. HALPERN: I agree that it can go.

4 THE COURT: Agree that it can?

5 MR. PASCRIHA: That's fine for us, your Honor.

6 THE COURT: Can we try to identify it. Do you have it
7 handy?

8 MR. PASCRIHA: We don't have it with us, but we can
9 run up and get it.

10:37AM 10 THE COURT: Why don't you go get it.

11 MR. PASCRIHA: The one that was used in the opening.

12 THE COURT: They've asked for a marker, which Lisa is
13 going to deliver.

14 MR. MACKINLAY: An unrelated matter.

15 MR. PASCRIHA: Your Honor, I believe this is the
16 blow-up of the chart we used as a chalk. It was used as a
17 PowerPoint, but I believe counsel agrees this is the relevant
18 one.

19 THE COURT: All right. Let's bring the jury in.

10:43AM 20 MR. HALPERN: I think it's okay if you ask them that's
21 what they want.

22 THE COURT: Just give it to them?

23 MR. HALPERN: Just to check to see if that is, in
24 fact, it.

25 THE COURT: Okay.

1 THE CLERK: That's fine.

2 THE COURT: Let's mark the note as Exhibit A and the
3 note as Exhibit B. In other words, the plan will be the clerk
4 will take it up to the jury room.

5 THE CLERK: We've already marked it.

6 THE COURT: C and D, C is the note and D is the chalk.

7 (Exhibits C and D were marked for identification.)

8 THE COURT: If there's anything unequivocal. If
9 there's anything other than this is what they want, we'll bring
10 them in.

10:44AM

11 THE CLERK: It's exactly what they wanted.

12 THE COURT: All right. They reported it's exactly
13 what they wanted. If there's nothing else, we'll stand in
14 recess.

15 THE CLERK: All rise.

16 (Jury deliberating)

17 THE CLERK: All rise.

18 THE COURT: All right. We have a verdict so we will
19 bring the jury down.

12:10PM

20 VERDICT

21 THE CLERK: All rise for the jury.

22 (JURORS ENTERED THE COURTROOM.)

23 THE CLERK: Thank you. You may be seated. Court is
24 now back in session.

25 THE COURT: Madam foreperson, has the jury reached a

1 unanimous verdict?

2 FOREPERSON OF THE JURY: Yes, we have.

3 THE COURT: Would you please give the verdict form to
4 the clerk. All right. The form appears to be in order. If
5 the defendant would please stand, and the clerk will publish
6 the verdict.

7 THE CLERK: "As to the offense charged, conspiracy to
8 conduct enterprise affairs through a pattern of racketeering
9 activity, we, the jury, find the Rafael Leoner-Aguirre guilty.
10 Signed by the foreperson."

12:12PM

11 THE COURT: All right. Is there a request to poll the
12 jury?

13 MR. HALPERN: No, your Honor.

14 THE COURT: All right. Thank you. You may be seated.
15 All right. Ladies and gentlemen, thank you, both personally
16 and on behalf of the court for your jury service. I have to
17 spend a couple minutes with the lawyers. I know it's the worst
18 traffic day of the year, and I'm sure you're anxious to get out
19 of here. I'd like to thank you personally in the jury room,
20 but thank you for your service, and all of you are discharged.

12:13PM

21 THE CLERK: All rise.

22 (JURORS EXITED THE COURTROOM.)

23 THE COURT: Mr. Aguirre, a written presentence report
24 will be prepared to assist me in determining your sentence.
25 You will be asked to give information for that report. Your

1 lawyer may be present, if you wish. It is important that the
2 report be accurate. It will not only affect what sentence you
3 receive but what happens to you after you are sentenced. If
4 you are sent to prison, it will affect where you are sent and
5 what happens to you when you get there.

6 Even minor mistakes in the report should be corrected.
7 You will have a chance to read that report or have it explained
8 to you in Spanish and to go over it with your lawyer before the
9 time of sentencing.

12:14PM 10 Both your lawyer and you personally will have the
11 opportunity to speak on behalf at the time of sentencing. I
12 will therefore refer you to probation for the presentence
13 investigation and preparation of the report. That process
14 usually takes about 12 weeks to complete, so I will set
15 sentencing for Thursday, February 15th at 2:00. Does that
16 work?

17 MR. PASCRIHA: It works for the government, your
18 Honor.

19 MR. HALPERN: I'll be on trial. I'm likely to be on
12:15PM 20 trial for most of February. Maybe it will end in the last week
21 of February, and I'll be in Worcester so I won't be able to
22 drive back here on time.

23 THE COURT: How about Friday March 2nd at 2:00?

24 MR. HALPERN: That works.

25 MR. PASCRIHA: That works, your Honor.

1 THE COURT: If there's a problem, let me know.

2 MR. HALPERN: The other request, if you could keep him
3 at Wyatt while this is pending.

4 THE COURT: That's indifferent, if there's an issue
5 with the government or the marshals, in other words, he will
6 remain in federal custody until his sentence.

7 MR. HALPERN: Yes.

8 THE COURT: That's fine with me, but I don't know if
9 it presents any issues for the marshals.

12:15PM 10 MR. PASCRIHA: Not at this time, your Honor.

11 THE COURT: The note in which the foreperson indicated
12 there was as the clerk will be marked as F.

13 (Exhibit F was marked for identification.)

14 THE COURT: Anything further?

15 MR. PASCRIHA: Nothing from the government, your
16 Honor.

17 MR. HALPERN: Nothing from the defendant.

18 THE CLERK: All rise.

19 (Whereupon, the hearing was adjourned at
20 4:59 p.m.)

21

22

23

24

25

C E R T I F I C A T E

UNITED STATES DISTRICT COURT)
DISTRICT OF MASSACHUSETTS) ss.
CITY OF BOSTON)

I do hereby certify that the foregoing transcript,
Pages 1 through 9 inclusive, was recorded by me
stenographically at the time and place aforesaid in Criminal
Action No. 15-10338-FDS, UNITED STATES vs.
RAFAEL LEONER-AGUIRRE and thereafter by me reduced to
typewriting and is a true and accurate record of the
proceedings.

Dated this 23rd day of July, 2018.

s/s Valerie A. O'Hara

VALERIE A. O'HARA

OFFICIAL COURT REPORTER